

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

JOHN BAXLEY, JR.,
ERIC L. JONES,
SAMUEL STOUT,
AMBER ARNETT,
EARL EDMONDSON,
JOSHUA HALL,
DONNA WELLS-WRIGHT,
ROBERT WATSON,
HEATHER REED, and
DANNY SPIKER, JR.,
on their own behalf and
on behalf of all others similarly situated,

Plaintiffs,

v.

CIVIL ACTION NO. 3:18-1526
(Consolidated with 3:18-1533 and 3:18-1436)

BETSY JIVIDEN, in her official capacity as
Commissioner of the West Virginia Division of
Corrections and Rehabilitation and
THE WEST VIRGINIA DIVISION OF
CORRECTIONS AND REHABILITATION, and
SHELBY SEARLS, in his official capacity as
the Superintendent of Western Regional Jail
and Correctional Facility,

Defendants.


ORDER

This matter is before the Court in view of the parties' disagreement about sequestering Plaintiff's expert witness, Dr. Homer Venters, for the duration of the hearing in this matter that is scheduled for April 2, 2020 at 10:00 a.m. Federal Rule of Evidence 615 provides that "[a]t a party's request, the court must order witnesses excluded so that they cannot hear other witnesses' testimony." However, Rule 615 excludes, *inter alia*, any "person whose presence a party shows to

be essential to presenting the party's claim or defense." F. R. E. 615. The Fourth Circuit Court of Appeals has interpreted this language to include "expert witnesses who are to give *only* expert opinions." *Opus 3 Ltd. v. Heritage Park, Inc.*, 91 F.3d 625 (4th Cir. 1996) (emphasis in original). Given Dr. Venter's role as an expert witness for Plaintiff, the Court **ORDERS** that he—as well as named parties to this case—not be sequestered for the duration of the April 2, 2020 hearing.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: March 31, 2020



ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE